IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 520 OF 2001

1 M/s Vasantdada Shetkari
Sahakari Sakhar Karkhana Ltd. ... Petitioner

V/s

1 The Maharashtra Pollution
Control Board & Anr. ... Respondents

Shri S.A. Ingawale for petitioner
Shri R.Y. Mirza, APP for the State.

Coram : V.M. Kanade,J.
Dated : 04/04/2005.

P.C. :-

1 The petitioners are challenging the order of issuance of process passed by the Chief Judicial Magistrate First Class, Sangli dated 13/02/1998. By the said order the process was issued under section 41(2), 43,44,45(A) read with section 24, 25, 26 read with section 33(A) of the Water (Prevention & Control of Pollution) Act 1974and section 15 read with section 7 of the Environment (Protection)Rules 1986.

2 Brief facts which are relevant for the purpose of deciding this criminal writ petition are as under.

On 11/04/1975 the petitioner No.1 Karkhana was granted consent to operate distillery unit upto 31/12/1997. The petitioner No.1 received the letter from the respondent No.1 directing them to install requisite Effluent Treatment System within a stipulated period. It was alleged that Karkhana was discharging industrial effluents in the river and lakes and was polluting them. Thereafter, the petitioners were directed to stop functioning as it had not installed its secondary treatment plant.

3 The Karkhana by letter dated 30.12.1997 requested the respondent No.1 to permit it to re-start its distillery unit and gave an undertaking that they would complete its fullfleged secondary treatment plant by the end of February 1998. In view of undertaking given by the petitioner Karkhana and after giving personal hearing, the respondent No.1 allowed the petitioners to start its distillery operation on certain terms and conditions.

4 On 18/02/1998 a complaint was registered registered against the petitioners alleging that they had failed to provide full fledged treatment facility to treat its highly polluted distillery unit and discharge of highly polluted effluent in the land which was used for irrigation purpose.

The Chief Judicial Magistrate, Sangli issued the process against the present petitioners on the said complaint filed by the respondent No.1.

5 The petitioners filed criminal revision application No. 64 of 1998 challenging the order of the issuance of process. The Additional Session Judge, Sangli, however by an order dated 09/03/2001 rejected the revision application.

6 It is submitted by the learned counsel appearing on behalf of the petitioners Karkhana was granted permission to re-start its distillery unit from time to time and last such permission was granted on 13/01/1998 after the undertaking was given by the petitioners that they will complete secondary effluent treatment plant by the end of February 1998. It was submitted that there were no averments in the complaint whether the petitioners unit was discharging its sewage causing environmental pollution and, therefore, the provisions of the Act were not attracted. It was submitted that proviso to Rule 3 of the Environment(Protection)Act 1986 was not taken into consideration by the trial court before issuing the process. It was submitted that the said proviso clearly stipulates that if time bound programme was granted by the Board to implement a scheme to treat environment pollution, in that case even if pollution was caused within the time

bound programme, it would not be an offence under the provisions of the said Act. It was

further submitted that the petitioner No.2 had nothing to do with the internal administration of the petitioner No.1 and, therefore, the order issuing process against the Chairman is liable to be quashed.

7 It is not possible to accept the submission of the learned counsel appearing on behalf of the petitioner. There is a specific averment in the complaint that though time was granted and extended since 1997, no steps had been taken by the petitioner No.1 Karkhana to install effluent treatment plant. In the said complaint, various particulars have been mentioned as to how the discharge of effluent from Karkhana was causing the pollution in the lakes and river and irrigated land in the said area. Till filing the complaint and even thereafter, the petitioner No.1 Karkhana had not taken any steps for the installation of effluent treatment plant as per the undertaking given by them to the respondent No.1. Thus, there is no reason to interfere with the order of issuance of process.Criminal writ petition is rejected.

(V.M. Kanade, J.)